

AMENDED IN ASSEMBLY MARCH 8, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 5

Introduced by Assembly Member Fuentes

December 6, 2010

An act to add Section 44665.5 to, and to add Article 10.7 (commencing with Section 44655) to, and to repeal Article 11 (commencing with Section 44660) of, Chapter 3 of Part 25 of Division 3 of Title 2 of, the Education Code, relating to certificated school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 5, as amended, Fuentes. Certificated school employees: performance evaluation.

Existing law requires the governing board of each school district to develop and adopt objective evaluation and assessment guidelines to evaluate the performance of its certificated employees and encourages each district to establish an evaluation and assessment system that is uniform throughout the district. Existing law requires each school district to establish standards of expected pupil achievement at each grade level in each area of study and to evaluate and assess certificated employee performance as it reasonably relates to specified factors.

This bill would make those provisions inoperative on ~~June 30, 2012~~ *July 1, 2012*, and would repeal them on January 1, 2013. The bill, commencing with the 2012–13 school year, instead would require the governing board of a school district to adopt and implement a fair, transparent, and rigorous evaluation system based on a uniform standard for certificated employees, as specified. ~~The~~ *In developing the evaluation system, the* bill would require the governing board of a school district;

~~in developing the evaluation system, to consult to include, by mutual agreement~~ with the exclusive bargaining representative of the certificated employees in the school district, in accordance with specified statutes regarding collective bargaining, ~~on all procedures and components of the evaluation system established pursuant to these provisions.~~ The bill would require a permanent certificated employee who is deemed to be performing in an unsatisfactory manner at the end of his or her evaluation process to participate *for one year* in an instructional support program for certificated employees, as adopted by the governing board of the school district, ~~for one year~~ for the purpose of improving the performance of the employee.

By requiring school districts to perform additional duties, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 10.7 (commencing with Section 44655)
2 is added to Chapter 3 of Part 25 of Division 3 of Title 2 of the
3 Education Code, to read:

4
5 Article 10.7. Evaluation and Support System for Certificated
6 Employees
7

8 44655. (a) Commencing with the 2012–13 school year, the
9 governing board of a school district shall adopt and implement a
10 fair, transparent, and rigorous evaluation system for certificated
11 employees based on a uniform standard. The purposes of the
12 evaluation system shall be to improve instruction for all pupils in
13 the school district and provide meaningful and continuous support
14 to certificated employees.

(b) In developing the evaluation system for certificated employees pursuant to this article, the governing board of a school district shall ~~consult~~, *by mutual agreement* with the exclusive bargaining representative of the certificated employees in the school district, in accordance with the provisions of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, ~~on~~ *include* all procedures and components of the evaluation *system established* pursuant to this article. If the certificated employees of the school district do not have an exclusive bargaining representative, the governing board of the school district shall adopt objective evaluation and support components, as applicable, that are consistent with this article.

44656. (a) In its evaluation system for certificated employees, the governing board of a school district shall include all of the following components:

(1) Evidence of the effectiveness of the *certificated* employee as compared to the California Standards for the Teaching Profession.

(2) Evidence of the effectiveness of the *certificated* employee in teaching the state academic content standards pursuant to Section 60605 or the common core standards in English language arts and mathematics adopted pursuant to Section 60605.8, as applicable. Evidence of effectiveness for purposes of this paragraph shall include, but not be limited to, evidence of pupil progress toward the standards specified in this paragraph as measured by all of the following:

(A) More than one year of data from the state adopted criterion referenced assessments established pursuant to Section 60605.

(B) More than one year of data from any locally developed pupil assessment that is valid and reliable and adopted by the governing board of the school district.

(C) Data from formative assessments as determined by the governing board of a school district to evaluate a certificated employee pursuant to this section.

(3) Evidence of the effectiveness of ~~the employee~~ *a certificated employee, who directly instructs English learner pupils in acquiring English*, in teaching the English language development standards adopted pursuant to Section 60811, ~~as applicable~~, for the purpose of improving a pupil's English proficiency as specified under the federal No Child Left Behind Act of 2001 (20 U.S.C.

1 Sec. 6301 et seq.). Evidence of effectiveness for purposes of this
2 paragraph shall include evidence of pupil progress toward the
3 standards specified in this paragraph as measured by all of the
4 following assessments:

5 (A) More than one year of data from the state adopted
6 assessment for English language proficiency pursuant to Section
7 60810.

8 (B) More than one year of data from any locally developed pupil
9 assessment that is valid and reliable and adopted by the governing
10 board of the school district.

11 (C) Data from formative assessments as determined by the
12 governing board of a school district to evaluate a certificated
13 employee pursuant to this section.

14 (4) (A) Multiple observations of the certificated employee in
15 an instructional setting. The observations shall be conducted by
16 trained administrators and peers using a uniform tool for use in
17 observing the certificated employee for the purpose of conducting
18 an evaluation pursuant to this article.

19 (B) *Prior to each observation, the observer shall meet with the*
20 *certificated employee to discuss the purpose of the observation.*

21 ~~(B)~~

22 (C) After each observation, the observer shall meet with the
23 *permanent* certificated employee to discuss recommendations, as
24 necessary, with regard to areas of improvement in the performance
25 of the employee.

26 (b) For purposes of this article, “formative assessment” means
27 assessment questions, tools, and processes that are embedded in
28 instruction and used by teachers and pupils to provide timely
29 feedback for purposes of adjusting instruction to improve learning.

30 (c) For the purposes of evaluating certificated employees who
31 provide instruction to pupils *in courses* whose progress toward the
32 standards cannot be measured pursuant to paragraphs (2) and (3)
33 ~~of subdivision (a) by utilizing assessment data~~, the governing board
34 of a school district shall determine an alternative method to
35 measure pupil progress toward the standards.

36 (d) This section does not limit the authority of the governing
37 board of a school district to adopt additional evaluation
38 components. If the governing board adopts additional components,
39 those components shall be developed in accordance with
40 subdivision (b) of Section 44655.

1 44657. (a) Evaluation of the performance of each certificated
2 employee pursuant to this article shall be made on a continuing
3 basis as follows:

4 (1) ~~Each~~ *At least once every* school year for probationary
5 employees.

6 (2) ~~Every~~ *At least every* other year for permanent employees.

7 (b) (1) The evaluation of a *permanent employee* shall include
8 recommendations, if necessary, as to areas of improvement in the
9 performance of the *permanent employee*. If ~~an~~ a *permanent*
10 employee is performing his or her duties in an unsatisfactory
11 manner, the employing authority shall notify the *permanent*
12 employee in writing of that assessment and describe the manner
13 in which the performance of the *permanent employee* is
14 unsatisfactory. After the *permanent employee* receives the written
15 assessment, the employing authority shall confer with the
16 *permanent employee*, making specific recommendations as to
17 areas of improvement in the *permanent employee's* performance
18 as that performance to the evaluation components pursuant to
19 Section 44656, and endeavor to assist the *permanent employee* in
20 his or her performance.

21 (2) A ~~permanent-certificated~~ employee who is deemed to be
22 performing in an unsatisfactory manner at the end of his or her
23 evaluation process shall participate for one year in an instructional
24 support program for certificated employees adopted by the
25 governing board of the school district for the purpose of improving
26 the performance of the *permanent employee*.

27 (c) The governing board of a school district shall define the
28 term "performing in an unsatisfactory manner" for purposes of
29 this section by mutual agreement with the exclusive bargaining
30 representative of the certificated employees of the district.

31 44658. This article shall become operative on July 1, 2012.

32 SEC. 2. Section 44665.5 is added to the Education Code, to
33 read:

34 44665.5. This article shall become inoperative on July 1, 2012,
35 and, as of January 1, 2013, is repealed, unless a later enacted
36 statute, that becomes operative on or before January 1, 2013,
37 deletes or extends the dates on which it becomes inoperative and
38 is repealed.

39 SEC. 3. If the Commission on State Mandates determines that
40 this act contains costs mandated by the state, reimbursement to

- 1 local agencies and school districts for those costs shall be made
- 2 pursuant to Part 7 (commencing with Section 17500) of Division
- 3 4 of Title 2 of the Government Code.